

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 62 & 41

94TH GENERAL ASSEMBLY
2007

0149S.11T

AN ACT

To repeal sections 476.083, 563.011, 563.031, 563.036, 563.041, 571.030, 571.080, 571.090, 571.095, 571.111, and 630.140, RSMo, and to enact in lieu thereof ten new sections relating to the criminal justice system, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 476.083, 563.011, 563.031, 563.036, 563.041, 571.030, 571.080, 571.090, 571.095, 571.111, and 630.140, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 476.083, 563.011, 563.031, 563.041, 563.074, 571.030, 571.080, 571.095, 571.111, and 630.140, to read as follows:

476.083. 1. In addition to any appointments made pursuant to section 485.010, RSMo, the presiding judge of each circuit containing one or more facilities operated by the department of corrections with an average total inmate population in all such facilities in the circuit over the previous two years of more than two thousand five hundred inmates may appoint a circuit court marshal to aid the presiding judge in the administration of the judicial business of the circuit by overseeing the physical security of the courthouse, serving court-generated papers and orders, and assisting the judges of the circuit as the presiding judge determines appropriate. Such circuit court marshal appointed pursuant to the provisions of this section shall serve at the pleasure of the presiding judge. The circuit court marshal authorized by this section is in addition to staff support from the circuit clerks, deputy circuit clerks, division clerks, municipal clerks,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 and any other staff personnel which may otherwise be provided by law.

14 2. The salary of a circuit court marshal shall be established by the
15 presiding judge of the circuit within funds made available for that purpose, but
16 such salary shall not exceed ninety percent of the salary of the highest paid
17 sheriff serving a county wholly or partially within that circuit. Personnel
18 authorized by this section shall be paid from state funds or federal grant moneys
19 which are available for that purpose and not from county funds.

20 3. Any person appointed as a circuit court marshal pursuant to this
21 section shall have at least five years' prior experience as a law enforcement
22 officer. In addition, any such person shall within one year after appointment, or
23 as soon as practicable, attend a court security school or training program
24 operated by the United States Marshal Service. In addition to all other powers
25 and duties prescribed in this section, a circuit court marshal may:

26 (1) Serve process;

27 (2) Wear a concealable firearm[, pursuant to a permit granted under
28 section 571.090, RSMo]; and

29 (3) Make an arrest based upon local court rules and state law, and as
30 directed by the presiding judge of the circuit.

563.011. As used in this chapter **the following terms shall mean:**

2 (1) "Deadly force" [means], physical force which the actor uses with the
3 purpose of causing or which he **or she** knows to create a substantial risk of
4 causing death or serious physical injury[.];

5 (2) "Dwelling" [means], any building [or], inhabitable structure, [though
6 movable or temporary, or a portion thereof, which is for the time being the actor's
7 home or place of lodging.] **or conveyance of any kind, whether the
8 building, inhabitable structure, or conveyance is temporary or
9 permanent, mobile or immobile, which has a roof over it, including a
10 tent, and is designed to be occupied by people lodging therein at night;**

11 (3) "Forcible felony", any felony involving the use or threat of
12 **physical force or violence against any individual, including but not
13 limited to murder, robbery, burglary, arson, kidnapping, assault, and
14 any forcible sexual offense;**

15 [(3)] (4) "Premises", includes any building, inhabitable structure and any
16 real property[.];

17 [(4)] (5) "Private person" [means], any person other than a law
18 enforcement officer;

19 **(6) "Remain after unlawfully entering", to remain in or upon**
20 **premises after unlawfully entering as defined in this section;**

21 **(7) "Residence", a dwelling in which a person resides either**
22 **temporarily or permanently or is visiting as an invited guest;**

23 **(8) "Unlawfully enter", a person unlawfully enters in or upon**
24 **premises when he or she enters such premises and is not licensed or**
25 **privileged to do so. A person who, regardless of his or her purpose,**
26 **enters in or upon premises that are at the time open to the public does**
27 **so with license unless he or she defies a lawful order not to enter,**
28 **personally communicated to him or her by the owner of such premises**
29 **or by another authorized person. A license to enter in a building that**
30 **is only partly open to the public is not a license to enter in that part of**
31 **the building that is not open to the public.**

563.031. 1. A person may, subject to the provisions of subsection 2 of this
2 section, use physical force upon another person when and to the extent he **or she**
3 reasonably believes such force to be necessary to defend himself **or herself** or a
4 third person from what he **or she** reasonably believes to be the use or imminent
5 use of unlawful force by such other person, unless:

6 **(1) The actor was the initial aggressor; except that in such case his **or****
7 **her use of force is nevertheless justifiable provided:**

8 **(a) He **or she** has withdrawn from the encounter and effectively**
9 **communicated such withdrawal to such other person but the latter persists in**
10 **continuing the incident by the use or threatened use of unlawful force; or**

11 **(b) He **or she** is a law enforcement officer and as such is an aggressor**
12 **pursuant to section 563.046; or**

13 **(c) The aggressor is justified under some other provision of this chapter**
14 **or other provision of law;**

15 **(2) Under the circumstances as the actor reasonably believes them to be,**
16 **the person whom he **or she** seeks to protect would not be justified in using such**
17 **protective force;**

18 **(3) The actor was attempting to commit, committing, or escaping**
19 **after the commission of a forcible felony.**

20 2. A person may not use deadly force upon another person under the
21 circumstances specified in subsection 1 of this section unless:

22 **(1) He **or she** reasonably believes that such deadly force is necessary to**
23 **protect himself **or herself** or another against death, serious physical injury,**

24 [rape, sodomy or kidnapping or serious physical injury through robbery, burglary
25 or arson] **or any forcible felony; or**

26 **(2) Such force is used against a person who unlawfully enters,**
27 **remains after unlawfully entering, or attempts to unlawfully enter a**
28 **dwelling, residence, or vehicle lawfully occupied by such person.**

29 **3. A person does not have a duty to retreat from a dwelling,**
30 **residence, or vehicle where the person is not unlawfully entering or**
31 **unlawfully remaining.**

32 [3.] **4.** The justification afforded by this section extends to the use of
33 physical restraint as protective force provided that the actor takes all reasonable
34 measures to terminate the restraint as soon as it is reasonable to do so.

35 [4.] **5.** The defendant shall have the burden of injecting the issue of
36 justification under this section.

563.041. 1. A person may, subject to the limitations of subsection 2, use
2 physical force upon another person when and to the extent that he **or she**
3 reasonably believes it necessary to prevent what he **or she** reasonably believes
4 to be the commission or attempted commission by such person of stealing,
5 property damage or tampering in any degree.

6 2. A person may use deadly force under circumstances described in
7 subsection 1 only when such use of deadly force is authorized under other sections
8 of this chapter.

9 3. The justification afforded by this section extends to the use of physical
10 restraint as protective force provided that the actor takes all reasonable measures
11 to terminate the restraint as soon as it is reasonable to do so.

12 4. The defendant shall have the burden of injecting the issue of
13 justification under this section.

563.074. 1. Notwithstanding the provisions of section 563.016, a
2 **person who uses force as described in sections 563.031, 563.041, 563.046,**
3 **563.051, 563.056, and 563.061 is justified in using such force and such**
4 **fact shall be an absolute defense to criminal prosecution or civil**
5 **liability.**

6 **2. The court shall award attorney's fees, court costs, and all**
7 **reasonable expenses incurred by the defendant in defense of any civil**
8 **action brought by a plaintiff if the court finds that the defendant has**
9 **an absolute defense as provided in subsection 1 of this section.**

571.030. 1. A person commits the crime of unlawful use of weapons if he

2 or she knowingly:

3 (1) Carries concealed upon or about his or her person a knife, a firearm,
4 a blackjack or any other weapon readily capable of lethal use; or

5 (2) Sets a spring gun; or

6 (3) Discharges or shoots a firearm into a dwelling house, a railroad train,
7 boat, aircraft, or motor vehicle as defined in section 302.010, RSMo, or any
8 building or structure used for the assembling of people; or

9 (4) Exhibits, in the presence of one or more persons, any weapon readily
10 capable of lethal use in an angry or threatening manner; or

11 (5) Possesses or discharges a firearm or projectile weapon while
12 intoxicated; or

13 (6) Discharges a firearm within one hundred yards of any occupied
14 schoolhouse, courthouse, or church building; or

15 (7) Discharges or shoots a firearm at a mark, at any object, or at random,
16 on, along or across a public highway or discharges or shoots a firearm into any
17 outbuilding; or

18 (8) Carries a firearm or any other weapon readily capable of lethal use
19 into any church or place where people have assembled for worship, or into any
20 election precinct on any election day, or into any building owned or occupied by
21 any agency of the federal government, state government, or political subdivision
22 thereof; or

23 (9) Discharges or shoots a firearm at or from a motor vehicle, as defined
24 in section 301.010, RSMo, discharges or shoots a firearm at any person, or at any
25 other motor vehicle, or at any building or habitable structure, unless the person
26 was lawfully acting in self-defense; or

27 (10) Carries a firearm, whether loaded or unloaded, or any other weapon
28 readily capable of lethal use into any school, onto any school bus, or onto the
29 premises of any function or activity sponsored or sanctioned by school officials or
30 the district school board.

31 2. Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection 1 of this
32 section shall not apply to or affect any of the following:

33 (1) All state, county and municipal peace officers who have completed the
34 training required by the police officer standards and training commission
35 pursuant to sections 590.030 to 590.050, RSMo, and possessing the duty and
36 power of arrest for violation of the general criminal laws of the state or for
37 violation of ordinances of counties or municipalities of the state, whether such

38 officers are on or off duty, and whether such officers are within or outside of the
39 law enforcement agency's jurisdiction, **or all qualified retired peace officers,**
40 **as defined in subsection 10 of this section, and who carry the**
41 **identification defined in subsection 11 of this section,** or any person
42 summoned by such officers to assist in making arrests or preserving the peace
43 while actually engaged in assisting such officer;

44 (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails
45 and other institutions for the detention of persons accused or convicted of crime;

46 (3) Members of the armed forces or national guard while performing their
47 official duty;

48 (4) Those persons vested by article V, section 1 of the Constitution of
49 Missouri with the judicial power of the state and those persons vested by Article
50 III of the Constitution of the United States with the judicial power of the United
51 States, the members of the federal judiciary;

52 (5) Any person whose bona fide duty is to execute process, civil or
53 criminal;

54 (6) Any federal probation officer **or federal flight deck officer as**
55 **defined under the federal flight deck officer program, 49 U.S.C. Section**
56 **44921;**

57 (7) Any state probation or parole officer, including supervisors and
58 members of the board of probation and parole;

59 (8) Any corporate security advisor meeting the definition and fulfilling the
60 requirements of the regulations established by the board of police commissioners
61 under section 84.340, RSMo; and

62 (9) Any coroner, deputy coroner, medical examiner, or assistant medical
63 examiner.

64 3. Subdivisions (1), (5), (8), and (10) of subsection 1 of this section do not
65 apply when the actor is transporting such weapons in a nonfunctioning state or
66 in an unloaded state when ammunition is not readily accessible or when such
67 weapons are not readily accessible. Subdivision (1) of subsection 1 of this section
68 does not apply to any person twenty-one years of age or older transporting a
69 concealable firearm in the passenger compartment of a motor vehicle, so long as
70 such concealable firearm is otherwise lawfully possessed, nor when the actor is
71 also in possession of an exposed firearm or projectile weapon for the lawful
72 pursuit of game, or is in his or her dwelling unit or upon premises over which the
73 actor has possession, authority or control, or is traveling in a continuous journey

74 peaceably through this state. Subdivision (10) of subsection 1 of this section does
75 not apply if the firearm is otherwise lawfully possessed by a person while
76 traversing school premises for the purposes of transporting a student to or from
77 school, or possessed by an adult for the purposes of facilitation of a
78 school-sanctioned firearm-related event.

79 4. Subdivisions (1), (8), and (10) of subsection 1 of this section shall not
80 apply to any person who has a valid concealed carry endorsement issued pursuant
81 to sections 571.101 to 571.121 or a valid permit or endorsement to carry concealed
82 firearms issued by another state or political subdivision of another state.

83 5. Subdivisions (3), (4), (5), (6), (7), (8), (9), and (10) of subsection 1 of this
84 section shall not apply to persons who are engaged in a lawful act of defense
85 pursuant to section 563.031, RSMo.

86 6. Nothing in this section shall make it unlawful for a student to actually
87 participate in school-sanctioned gun safety courses, student military or ROTC
88 courses, or other school-sponsored firearm-related events, provided the student
89 does not carry a firearm or other weapon readily capable of lethal use into any
90 school, onto any school bus, or onto the premises of any other function or activity
91 sponsored or sanctioned by school officials or the district school board.

92 7. Unlawful use of weapons is a class D felony unless committed pursuant
93 to subdivision (6), (7), or (8) of subsection 1 of this section, in which cases it is a
94 class B misdemeanor, or subdivision (5) or (10) of subsection 1 of this section, in
95 which case it is a class A misdemeanor if the firearm is unloaded and a class D
96 felony if the firearm is loaded, or subdivision (9) of subsection 1 of this section,
97 in which case it is a class B felony, except that if the violation of subdivision (9)
98 of subsection 1 of this section results in injury or death to another person, it is
99 a class A felony.

100 8. Violations of subdivision (9) of subsection 1 of this section shall be
101 punished as follows:

102 (1) For the first violation a person shall be sentenced to the maximum
103 authorized term of imprisonment for a class B felony;

104 (2) For any violation by a prior offender as defined in section 558.016,
105 RSMo, a person shall be sentenced to the maximum authorized term of
106 imprisonment for a class B felony without the possibility of parole, probation or
107 conditional release for a term of ten years;

108 (3) For any violation by a persistent offender as defined in section
109 558.016, RSMo, a person shall be sentenced to the maximum authorized term of

110 imprisonment for a class B felony without the possibility of parole, probation, or
111 conditional release;

112 (4) For any violation which results in injury or death to another person,
113 a person shall be sentenced to an authorized disposition for a class A felony.

114 9. Any person knowingly aiding or abetting any other person in the
115 violation of subdivision (9) of subsection 1 of this section shall be subject to the
116 same penalty as that prescribed by this section for violations by other persons.

117 10. As used in this section "qualified retired peace officer" means
118 an individual who:

119 (1) Retired in good standing from service with a public agency
120 as a peace officer, other than for reasons of mental instability;

121 (2) Before such retirement, was authorized by law to engage in
122 or supervise the prevention, detection, investigation, or prosecution of,
123 or the incarceration of any person for, any violation of law, and had
124 statutory powers of arrest;

125 (3) Before such retirement, was regularly employed as a peace
126 officer for an aggregate of fifteen years or more, or retired from service
127 with such agency, after completing any applicable probationary period
128 of such service, due to a service-connected disability, as determined by
129 such agency;

130 (4) Has a nonforfeitable right to benefits under the retirement
131 plan of the agency if such a plan is available;

132 (5) During the most recent twelve-month period, has met, at the
133 expense of the individual, the standards for training and qualification
134 for active peace officers to carry firearms;

135 (6) Is not under the influence of alcohol or another intoxicating
136 or hallucinatory drug or substance; and

137 (7) Is not prohibited by federal law from receiving a firearm.

138 11. The identification required by subdivision (1) of subsection
139 2 of this section is:

140 (1) A photographic identification issued by the agency from
141 which the individual retired from service as a peace officer that
142 indicates that the individual has, not less recently than one year before
143 the date the individual is carrying the concealed firearm, been tested
144 or otherwise found by the agency to meet the standards established by
145 the agency for training and qualification for active peace officers to
146 carry a firearm of the same type as the concealed firearm; or

147 **(2) A photographic identification issued by the agency from**
148 **which the individual retired from service as a peace officer; and**

149 **(3) A certification issued by the state in which the individual**
150 **resides that indicates that the individual has, not less recently than one**
151 **year before the date the individual is carrying the concealed firearm,**
152 **been tested or otherwise found by the state to meet the standards**
153 **established by the state for training and qualification for active peace**
154 **officers to carry a firearm of the same type as the concealed firearm.**

571.080. [1.] A person commits the crime of transfer of a concealable
2 firearm [without a permit if:

3 (1) He buys, leases, borrows, exchanges or otherwise receives any
4 concealable firearm, unless he first obtains and delivers to the person delivering
5 the firearm a valid permit authorizing the acquisition of the firearm; or

6 (2) He sells, leases, loans, exchanges, gives away or otherwise delivers any
7 concealable firearm, unless he first demands and receives from the person
8 receiving the firearm a valid permit authorizing such acquisition of the firearm.

9 2. A permit to acquire a concealable firearm shall only be valid for thirty
10 days after the issuance thereof.

11 3. Subsection 1 of this section shall not apply to the acquisition by or
12 transfer of concealable firearms among manufacturers, wholesalers or retailers
13 of firearms for purposes of commerce; nor shall it apply to antique firearms or
14 replicas thereof; nor shall it apply to curio or relic firearms as defined in section
15 571.010.

16 4. Transfer of concealable firearms without a permit is a class A
17 misdemeanor] **if such person violates 18 U.S.C. Section 922(b) or 18 U.S.C.**
18 **Section 922(x).**

571.095. Upon conviction for or attempting to commit a felony in violation
2 of any law perpetrated in whole or in part by the use of a firearm, the court may,
3 in addition to the penalty provided by law for such offense, order the confiscation
4 and disposal **or sale or trade to a licensed firearms dealer** of firearms and
5 ammunition used in the commission of the crime or found in the possession or
6 under the immediate control of the defendant at the time of his **or her**
7 arrest. **The proceeds of any sale or gains from trade shall be the**
8 **property of the police department or sheriff's department responsible**
9 **for the defendant's arrest or the confiscation of the firearms and**
10 **ammunition.** If such firearms or ammunition are not the property of the

11 convicted felon, they shall be returned to their rightful owner if he **or she** is
12 known and was not a participant in the crime. **Any proceeds collected under**
13 **this section shall be deposited with the municipality or by the county**
14 **treasurer into the county sheriff's revolving fund established in section**
15 **50.535, RSMo.**

571.111. 1. An applicant for a concealed carry endorsement shall
2 demonstrate knowledge of firearms safety training. This requirement shall be
3 fully satisfied if the applicant for a concealed carry endorsement:

4 (1) Submits a photocopy of a certificate of firearms safety training course
5 completion, as defined in subsection 2 of this section, signed by a qualified
6 firearms safety instructor as defined in subsection 5 of this section; or

7 (2) Submits a photocopy of a certificate that shows the applicant
8 completed a firearms safety course given by or under the supervision of any state,
9 county, municipal, or federal law enforcement agency; or

10 (3) Is a qualified firearms safety instructor as defined in subsection 5 of
11 this section; **or**

12 (4) **Submits proof that the applicant currently holds any type of**
13 **valid peace officer license issued under the requirements of chapter**
14 **590, RSMo; or**

15 (5) **Submits proof that the applicant is currently allowed to carry**
16 **firearms in accordance with the certification requirements of section**
17 **217.710, RSMo; or**

18 (6) **Submits proof that the applicant is currently certified as any**
19 **class of corrections officer by the Missouri department of corrections**
20 **and has passed at least one eight-hour firearms training course,**
21 **approved by the director of the Missouri department of corrections**
22 **under the authority granted to him or her by section 217.105, RSMo,**
23 **that includes instruction on the justifiable use of force as prescribed in**
24 **chapter 563, RSMo.**

25 2. A certificate of firearms safety training course completion may be
26 issued to any applicant by any qualified firearms safety instructor. On the
27 certificate of course completion the qualified firearms safety instructor shall
28 affirm that the individual receiving instruction has taken and passed a firearms
29 safety course of at least eight hours in length taught by the instructor that
30 included:

31 (1) Handgun safety in the classroom, at home, on the firing range and

32 while carrying the firearm;

33 (2) A physical demonstration performed by the applicant that
34 demonstrated his or her ability to safely load and unload a revolver and a
35 semiautomatic pistol and demonstrated his or her marksmanship with both;

36 (3) The basic principles of marksmanship;

37 (4) Care and cleaning of concealable firearms;

38 (5) Safe storage of firearms at home;

39 (6) The requirements of this state for obtaining a certificate of
40 qualification for a concealed carry endorsement from the sheriff of the individual's
41 county of residence and a concealed carry endorsement issued by the department
42 of revenue;

43 (7) The laws relating to firearms as prescribed in this chapter;

44 (8) The laws relating to the justifiable use of force as prescribed in
45 chapter 563, RSMo;

46 (9) A live firing exercise of sufficient duration for each applicant to fire
47 a handgun, from a standing position or its equivalent, a minimum of fifty rounds
48 at a distance of seven yards from a B-27 silhouette target or an equivalent target;

49 (10) A live fire test administered to the applicant while the instructor was
50 present of twenty rounds from a standing position or its equivalent at a distance
51 from a B-27 silhouette target, or an equivalent target, of seven yards.

52 3. A qualified firearms safety instructor shall not give a grade of "passing"
53 to an applicant for a concealed carry endorsement who:

54 (1) Does not follow the orders of the qualified firearms instructor or
55 cognizant range officer; or

56 (2) Handles a firearm in a manner that, in the judgment of the qualified
57 firearm safety instructor, poses a danger to the applicant or to others; or

58 (3) During the live fire testing portion of the course fails to hit the
59 silhouette portion of the targets with at least fifteen rounds.

60 4. Qualified firearms safety instructors who provide firearms safety
61 instruction to any person who applies for a concealed carry endorsement shall:

62 (1) Make the applicant's course records available upon request to the
63 sheriff of the county in which the applicant resides;

64 (2) Maintain all course records on students for a period of no less than
65 four years from course completion date; and

66 (3) Not have more than forty students in the classroom portion of the
67 course or more than five students per range officer engaged in range firing.

68 5. A firearms safety instructor shall be considered to be a qualified
69 firearms safety instructor by any sheriff issuing a certificate of qualification for
70 a concealed carry endorsement pursuant to sections 571.101 to 571.121 if the
71 instructor:

72 (1) Is a valid firearms safety instructor certified by the National Rifle
73 Association holding a rating as a personal protection instructor or pistol
74 marksmanship instructor; or

75 (2) Submits a photocopy of a certificate from a firearms safety instructor's
76 course offered by a local, state, or federal governmental agency; or

77 (3) Submits a photocopy of a certificate from a firearms safety instructor
78 course approved by the department of public safety; or

79 (4) Has successfully completed a firearms safety instructor course given
80 by or under the supervision of any state, county, municipal, or federal law
81 enforcement agency; or

82 (5) Is a certified police officer firearms safety instructor.

83 6. Any firearms safety instructor who knowingly provides any sheriff with
84 false information concerning an applicant's performance on the live fire exercise
85 or test administered to the applicant by the instructor pursuant to subdivision (9)
86 or (10) of subsection 2 of this section shall be guilty of a class C misdemeanor.

630.140. 1. Information and records compiled, obtained, prepared or
2 maintained by the residential facility, day program operated, funded or licensed
3 by the department or otherwise, specialized service, or by any mental health
4 facility or mental health program in which people may be civilly detained
5 pursuant to chapter 632, RSMo, in the course of providing services to either
6 voluntary or involuntary patients, residents or clients shall be confidential.

7 2. The facilities or programs shall disclose information and records
8 including medication given, dosage levels, and individual ordering such
9 medication to the following upon their request:

10 (1) The parent of a minor patient, resident or client;

11 (2) The guardian or other person having legal custody of the patient,
12 resident or client;

13 (3) The attorney of a patient, resident or client who is a ward of the
14 juvenile court, an alleged incompetent, an incompetent ward or a person detained
15 under chapter 632, RSMo, as evidenced by court orders of the attorney's
16 appointment;

17 (4) An attorney or personal physician as authorized by the patient,

18 resident or client;

19 (5) Law enforcement officers and agencies, information about patients,
20 residents or clients committed pursuant to chapter 552, RSMo, but only to the
21 extent necessary to carry out the responsibilities of their office, and all such law
22 enforcement officers shall be obligated to keep such information confidential;

23 (6) The entity or agency authorized to implement a system to protect and
24 advocate the rights of persons with developmental disabilities under the
25 provisions of 42 U.S.C. Sections 15042 to 15044. The entity or agency shall be
26 able to obtain access to the records of a person with developmental disabilities
27 who is a client of the entity or agency if such person has authorized the entity or
28 agency to have such access; and the records of any person with developmental
29 disabilities who, by reason of mental or physical condition is unable to authorize
30 the entity or agency to have such access, if such person does not have a legal
31 guardian, conservator or other legal representative, and a complaint has been
32 received by the entity or agency with respect to such person or there is probable
33 cause to believe that such person has been subject to abuse or neglect. The entity
34 or agency obtaining access to a person's records shall meet all requirements for
35 confidentiality as set out in this section;

36 (7) The entity or agency authorized to implement a system to protect and
37 advocate the rights of persons with mental illness under the provisions of 42
38 U.S.C. 10801 shall be able to obtain access to the records of a patient, resident
39 or client who by reason of mental or physical condition is unable to authorize the
40 system to have such access, who does not have a legal guardian, conservator or
41 other legal representative and with respect to whom a complaint has been
42 received by the system or there is probable cause to believe that such individual
43 has been subject to abuse or neglect. The entity or agency obtaining access to a
44 person's records shall meet all requirements for confidentiality as set out in this
45 section. The provisions of this subdivision shall apply to a person who has a
46 significant mental illness or impairment as determined by a mental health
47 professional qualified under the laws and regulations of the state;

48 (8) To mental health coordinators, but only to the extent necessary to
49 carry out their duties under chapter 632, RSMo.

50 3. The facilities or services may disclose information and records under
51 any of the following:

52 (1) As authorized by the patient, resident or client;

53 (2) To persons or agencies responsible for providing health care services

54 to such patients, residents or clients;

55 (3) To the extent necessary for a recipient to make a claim or for a claim
56 to be made on behalf of a recipient for aid or insurance;

57 (4) To qualified personnel for the purpose of conducting scientific
58 research, management audits, financial audits, program evaluations or similar
59 studies; provided, that such personnel shall not identify, directly or indirectly,
60 any individual patient, resident or client in any report of such research, audit or
61 evaluation, or otherwise disclose patient, resident or client identities in any
62 manner;

63 (5) To the courts as necessary for the administration of chapter 211,
64 RSMo, 475, RSMo, 552, RSMo, or 632, RSMo;

65 (6) To law enforcement officers or public health officers, but only to the
66 extent necessary to carry out the responsibilities of their office, and all such law
67 enforcement and public health officers shall be obligated to keep such information
68 confidential;

69 (7) Pursuant to an order of a court or administrative agency of competent
70 jurisdiction;

71 (8) To the attorney representing petitioners, but only to the extent
72 necessary to carry out their duties under chapter 632, RSMo;

73 (9) To the department of social services or the department of health and
74 senior services as necessary to report or have investigated abuse, neglect, or
75 rights violations of patients, residents, or clients;

76 (10) To a county board established pursuant to sections 205.968 to
77 205.972, RSMo 1986, but only to the extent necessary to carry out their statutory
78 responsibilities. The county board shall not identify, directly or indirectly, any
79 individual patient, resident or client;

80 (11) To parents, legal guardians, treatment professionals, law enforcement
81 officers, and other individuals who by having such information could mitigate the
82 likelihood of a suicide. The facility treatment team shall have determined that
83 the consumer's safety is at some level of risk.

84 4. The facility or program shall document the dates, nature, purposes and
85 recipients of any records disclosed under this section and sections 630.145 and
86 630.150.

87 5. The records and files maintained in any court proceeding under chapter
88 632, RSMo, shall be confidential and available only to the patient, the patient's
89 attorney, guardian, or, in the case of a minor, to a parent or other person having

90 legal custody of the patient, [and] to the petitioner and the petitioner's attorney,
91 **and to the Missouri state highway patrol for reporting to the National**
92 **Instant Criminal Background Check System (NICS).** In addition, the court
93 may order the release or use of such records or files only upon good cause shown,
94 and the court may impose such restrictions as the court deems appropriate.

95 6. Nothing contained in this chapter shall limit the rights of discovery in
96 judicial or administrative procedures as otherwise provided for by statute or rule.

97 7. The fact of admission of a voluntary or involuntary patient to a mental
98 health facility under chapter 632, RSMo, may only be disclosed as specified in
99 subsections 2 and 3 of this section.

[563.036. 1. A person in possession or control of premises
2 or a person who is licensed or privileged to be thereon, may, subject
3 to the provisions of subsection 2 of this section, use physical force
4 upon another person when and to the extent that he reasonably
5 believes it necessary to prevent or terminate what he reasonably
6 believes to be the commission or attempted commission of the crime
7 of trespass by the other person.

8 2. A person may use deadly force under circumstances
9 described in subsection 1 of this section only:

10 (1) When such use of deadly force is authorized under other
11 sections of this chapter; or

12 (2) When he reasonably believes it necessary to prevent
13 what he reasonably believes to be an attempt by the trespasser to
14 commit arson or burglary upon his dwelling; or

15 (3) When entry into the premises is made or attempted in
16 a violent and tumultuous manner, surreptitiously, or by stealth,
17 and he reasonably believes that the entry is attempted or made for
18 the purpose of assaulting or offering physical violence to any
19 person or being in the premises and he reasonably believes that
20 force is necessary to prevent the commission of a felony.

21 3. The defendant shall have the burden of injecting the
22 issue of justification under this section.]

[571.090. 1. A permit to acquire a concealable firearm shall
2 be issued by the sheriff of the county in which the applicant
3 resides, if all of the statements in the application are true, and the
4 applicant:

5 (1) Is at least twenty-one years of age, a citizen of the
6 United States and has resided in this state for at least six months;

7 (2) Has not pled guilty to or been convicted of a crime
8 punishable by imprisonment for a term exceeding one year under
9 the laws of any state or of the United States other than a crime
10 classified as a misdemeanor under the laws of any state and
11 punishable by a term of imprisonment of two years or less that
12 does not involve an explosive weapon, firearm, firearm silencer or
13 gas gun;

14 (3) Is not a fugitive from justice or currently charged in an
15 information or indictment with the commission of a crime
16 punishable by imprisonment for a term exceeding one year under
17 the laws of any state or of the United States other than a crime
18 classified as a misdemeanor under the laws of any state and
19 punishable by a term of imprisonment of two years or less that
20 does not involve an explosive weapon, firearm, firearm silencer or
21 gas gun;

22 (4) Has not been discharged under dishonorable conditions
23 from the United States armed forces;

24 (5) Is not publicly known to be habitually in an intoxicated
25 or drugged condition; and

26 (6) Is not currently adjudged mentally incompetent and has
27 not been committed to a mental health facility, as defined in
28 section 632.005, RSMo, or a similar institution located in another
29 state.

30 2. Applications shall be made to the sheriff of the county in
31 which the applicant resides. An application shall be filed in
32 writing, signed and verified by the applicant, and shall state only
33 the following: the name, Social Security number, occupation, age,
34 height, color of eyes and hair, residence and business addresses of
35 the applicant, the reason for desiring the permit, and whether the
36 applicant complies with each of the requirements specified in
37 subsection 1 of this section.

38 3. Before a permit is issued, the sheriff shall make only
39 such inquiries as he deems necessary into the accuracy of the
40 statements made in the application. The sheriff may require that

41 the applicant display a Missouri operator's license or other suitable
42 identification. The sheriff shall issue the permit within a period
43 not to exceed seven days after submission of the properly completed
44 application excluding Saturdays, Sundays or legal holidays.

45 The sheriff may refuse to issue the permit if he determines that
46 any of the requirements specified in subsection 1 of this section
47 have not been met, or if he has reason to believe that the applicant
48 has rendered a false statement regarding any of the provisions in
49 subsection 1 of this section. If the application is approved, the
50 sheriff shall issue a permit and a copy thereof to the applicant.

51 4. The permit shall recite the date of issuance, that it is
52 invalid after thirty days, the name and address of the person to
53 whom granted, the nature of the transaction, and a physical
54 description of the applicant. The applicant shall sign the permit
55 in the presence of the sheriff.

56 5. If the permit is used, the person who receives the permit
57 from the applicant shall return it to the sheriff within thirty days
58 after its expiration, with a notation thereon showing the date and
59 manner of disposition of the firearm and a description of the
60 firearm including the make, model and serial number. The sheriff
61 shall keep a record of all applications for permits, his action
62 thereon, and shall preserve all returned permits.

63 6. No person shall in any manner transfer, alter or change
64 a permit, or make a false notation thereon, or obtain a permit upon
65 any false representation, or use, or attempt to use a permit issued
66 to another.

67 7. For the processing of the permit, the sheriff in each
68 county and the city of St. Louis shall charge a fee not to exceed ten
69 dollars which shall be paid into the treasury of the county or city
70 to the credit of the general revenue fund.

71 8. In any case when the sheriff refuses to issue or to act on
72 an application for a permit, such refusal shall be in writing setting
73 forth the reasons for such refusal. Such written refusal shall
74 explain the denied applicant's right to appeal and, with a copy of
75 the completed application, shall be given to the denied applicant
76 within a period not to exceed seven days after submission of the

properly completed application excluding Saturdays, Sundays or legal holidays. The denied applicant shall have the right to appeal the denial within ten days of receiving written notice of the denial. Such appeals shall be heard in small claims court as defined in section 482.300, RSMo, and the provisions of sections 482.300, 482.310 and 482.335, RSMo, shall apply to such appeals.

9. A denial of or refusal to act on an application for permit may be appealed by filing with the clerk of the small claims court a copy of the sheriff's written refusal and a form substantially similar to the appeal form provided in this section. Appeal forms shall be provided by the clerk of the small claims court free of charge to any person:

SMALL CLAIMS COURT

In the Circuit Court of..... Missouri

Case Number.....

....., Denied Applicant)

)

vs.

)

)

....., Sheriff)

Return Date.....

DENIAL OF PERMIT APPEAL

The denied applicant states that his properly completed application for a permit to acquire a firearm with a barrel of less than sixteen inches was denied by the sheriff of..... County, Missouri, without just cause. The denied applicant affirms that all of the statements in the application are true.

.....

Denied Applicant

10. The notice of appeal in a denial of permit appeal shall be made to the sheriff in a manner and form determined by the small claims court judge.

11. If at the hearing the person shows he is entitled to the requested permit, the court shall issue an appropriate order to cause the issuance of the permit. Costs shall not be assessed

113 against the sheriff in any case.

114 12. Any person aggrieved by any final judgment rendered
115 by a small claims court in a denial of permit appeal may have a
116 trial de novo as provided in sections 512.180 to 512.320, RSMo.

117 13. Violation of any provision of this section is a class A
118 misdemeanor.]

✓

Unofficial

Bill

Copy